

Fresno, California

January 27, 2004

The City Council met in regular session at the hour of 8:32 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Brad Castillo	Council President

Dan Hobbs, City Manager  
Andy Souza, Assistant City Manager  
Hilda Cantu Montoy, City Attorney  
Becky Klisch, City Clerk  
Yolanda Salazar, Assistant City Clerk

Guy Shannon, Local Baha "i" Faith, gave the invocation, and President Castillo led the Pledge of Allegiance to the Flag.

APPROVE MINUTES OF JANUARY 3, 2004

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the minutes of January 13, 2004, approved as submitted.

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**COUNCIL MEMBER REPORTS AND COMMENTS:**

**COUNCIL HOSTING OF ANIMALS FOR ADOPTION FROM THE SPCA - COUNCILMEMBER DUNCAN**

Councilmember Duncan advised he attended the 1<sup>st</sup> annual SPCA Awards Dinner last Thursday an idea came about afterwards for the City Council to profile animals that are up for adoption and proposed, starting with the February 3<sup>rd</sup> meeting, that each council member host and profile an animal at the first council meeting of each month and added the animal would also be profiled on the cable channel, with Council concurring. Councilmember Calhoun stated he also attended the awards dinner and stated since taxpayers do support the SPCA financially the City should do all it can to help raise funds and insure animals are not destroyed.

COMMENDATION TO (1) POLICE DEPARTMENT FOR RESOLVING A PROBLEM WITH A SOUTHEAST MERCHANT, (2) EFREM BANUELOS, CONSTRUCTION MANAGEMENT, FOR HANDLING A SEWER LINE PROBLEM ON CHESTNUT AVENUE AT THE SENIORS CITIZENS VILLAGE; AND (3) JET LIM, COMMUNITY SANITATION, FOR TAKING CARE OF GRAFFITI ON ADLER AND KINGS CANYON ON THE SAME DAY THE COMPLAINT WAS FILED - COUNCILMEMBER DAGES

Commendations made.

COMMENDATION TO COMMUNITY SANITATION FOR QUICK ACTION IN CLEANING UP GRAFFITI AND DEBRIS ALONG A SIX (6) BLOCK AREA NEAR JEANNE AVENUE AND THE RAILROAD TRACKS, AND AT A PONDING BASIN AT MCKINLEY AND FRUIT AVENUES - COUNCILMEMBER BOYAJIAN

Commendation made.

**FORESTIERRE UNDERGROUND GARDENS - COUNCILMEMBER CALHOUN**

future of the underground gardens due to future development, spoke to the need for good development around the gardens (which he stated would not be touched) and for people who care about the gardens and the type of development that will occur to get involved, and added Los Angeles' interest in Fresno was positive.

COMMENDATION TO ALL INVOLVED IN THE FRESNO BEE "VALLEY TIMES" ISSUE - COUNCILMEMBER CALHOUN

Commendation made.

PLANS FOR EATON PLAZA - COUNCILMEMBER CALHOUN

Councilmember Calhoun commended the media for their coverage of the three scenarios for the plaza stating they were very exciting and added this was exciting work and would move the city forward.

COMMENDATION TO ALL INVOLVED IN THE SUCCESSFUL MARTIN LUTHER KING, JR., WEEKEND CELEBRATION AND EVENTS - COUNCILMEMBER STERLING

Commendation made.

**(3-E) PUBLIC COMMENTS REGARDING CITY ATTORNEY PERFORMANCE EVALUATION**

President Castillo thanked City Attorney Montoy on behalf of the Council; noted she was evaluated last week and advised with her knowing of the unstable fiscal times she chose to forego a raise this year even though it was very well deserved and warranted; stated it was important for the public to know the incredible amount of work and time she and her staff spend on city issues and advised last year her office worked a total of 39,000 hours with two vacancies; spoke to the experience and professionalism of Ms. Montoy and her staff; and again commended Mr. Montoy for her leadership and for inspiring her staff.

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PROCLAMATION OF HELP LOAN DAY - MAYOR AUTRY AND PRESIDENT CASTILLO

Read and presented.

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President Castillo left the meeting at 8:59 a.m.

**APPROVE AGENDA:**

**(2-B) REQUEST FOR APPROVAL OF THE FRESNO POLICE DEPARTMENT TO PURSUE TRADE-IN OF PISTON HELICOPTERS IN EXCHANGE TOWARD PURCHASE OF SECOND EC120 TURBINE HELICOPTER**

**1. AUTHORIZE THE POLICE DEPARTMENT TO PURSUE THE TRADE-IN OF PISTON FLEET WITH AMERICAN EUROCOPTER IN AN EFFORT TO SECURE ANOTHER TURBINE HELICOPTER FROM AMERICAN EUROCOPTER**

Laid over one week at the request of staff.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, **RESOLVED**, the **AGENDA** hereby approved, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling
Noes	:	None
Absent	:	Castillo

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**ADOPT CONSENT CALENDAR:**

Gloria Torrez stated she did not consider consent calendar items to be routine and they needed to be considered and acted upon separately; and spoke to **Item 1-A** stating she was unclear with the purpose, she was opposed to taking funds from FAX, spoke to the SJVAPCD changing the air designation from severe to extreme, expressed concern and opposition to natural gas, expressed concern that bus stops were being eliminated and streets were being closed, noted bikes were involved and she thought buses were the issue, and stated FAX dollars needed to stay with FAX.

**(1-B) RESOLUTION NO. 2004-19** - INDICATING SUPPORT BY AUTHORIZING APPLICATION TO THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF VIOLENCE AGAINST WOMEN, FOR THE PRESIDENT'S FAMILY JUSTICE CENTER INITIATIVE \$1.5 MILLION GRANT PROGRAM, AND COMPLETION OF MEMORANDUM OF UNDERSTANDING AND RELATED DOCUMENTS

**(1-C)** AWARD A ONE-YEAR REQUIREMENTS CONTRACT WITH PROVISIONS FOR TWO-ONE YEAR EXTENSIONS TO DAVID F. O'KEEFE CO. OF LAFAYETTE, CA IN THE AMOUNT OF \$205,827.66 FOR TRANSIT BENCHES, TRASH RECEPTACLE, LID AND ASSEMBLY

Councilmember Dages noted the local preference ordinance was being revised but stated he was still frustrated with Items 1-C and 1-D because the City was supporting other communities in that the city's tax dollars were going to other regions. City Attorney Montoy advised the ordinance had been drafted and it was currently being reviewed by the city manager.

**(1-D)** AWARD A CONTRACT TO KELLY C. BROYLES CONSTRUCTION, INC. OF CLOVIS IN THE AMOUNT OF \$79,886 FOR CONSTRUCTION OF TWO 8" WATER MAINS IN N. KATY LANE AND N. CECILIA AVENUE

**(1-E)** APPROVE AMENDMENT TO AGREEMENT NO. 2 WITH BLAIR, CHURCH & FLYNN FOR TRANSPORTATION ENGINEERING SERVICES FOR IMPROVEMENTS TO FRIANT ROAD IN THE AMOUNT OF \$33,500, AND AUTHORIZE THE CITY MANAGER OR DESIGNEE TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY

**(1-F) RESOLUTION NO. 2004-20** - INTENT TO ANNEX FINAL TRACT NO. 5173 TO CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 63

**(1-G) RESOLUTION NO. 2004-21** - INTENT TO ANNEX FINAL TRACT NO. 5148 TO CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 64

**(1-H) RESOLUTION NO. 2004-22** - INTENT TO ANNEX FINAL TRACT NO. 5127 TO CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 65

**(1-I) RESOLUTION NO. 2004-23** - INTENT TO ANNEX FINAL TRACT NO. 5206 TO CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 66

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling
Noes	:	None
Absent	:	Castillo

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**(3-A) RESOLUTION NO. 2004-24** - IN SUPPORT OF A UNIVERSITY OF CALIFORNIA MEDICAL SCHOOL IN FRESNO - COUNCILMEMBER BOYAJIAN

Councilmember Boyajian, speaking also as a member of a committee headed by Assembly Member Reyes, explained the effort, spoke to the need for a medical school in the valley and to the need for a united front, and requested support and made a motion to adopt the resolution.

On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2004-24 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling  
 Noes : None  
 Absent : Castillo

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**(3-B) CONSIDER ADOPTION OF A RESOLUTION IN SUPPORT OF THE 2004 LOCAL TAXPAYERS AND PUBLIC SAFETY PROTECTION ACT - COUNCILMEMBER CALHOUN**

**1. RESOLUTION NO. 2004-25 - SUPPORTING THE 2004 LOCAL TAXPAYERS AND PUBLIC SAFETY PROTECTION ACT**

Councilmember Calhoun clarified the work he and his assistant conducted on this issue took place at their homes and *not* on city time or with city resources; spoke to the background of the issue including Proposition 13, the State's "grab" of ERAF funds, VLF, booking fees, and Proposition 42; advised the process was continuing this date affecting cities and counties across the state and elaborated; spoke to the effort to put the subject initiative on the ballot and stated the Act would, in most cases, keep the State from reaching into the pockets of local governments; and stated this initiative was supported very broadly, read a portion of the resolution outlining what the Act would do, and made a motion to adopt the resolution, which motion was seconded by Councilmember Perea and acted upon after discussion. President Castillo returned to the meeting at 9:11 a.m. in the middle of Councilmember Calhoun's comments.

Mayor Autry **(2 - 0)** and Councilmembers Perea, Dages and Sterling all spoke in support of the issue and commended Councilmember Calhoun for bringing it forth. City Attorney Montoy responded to questions of President Castillo relative to whether there were funding sources available if the City wanted to support the initiative, what city activities were permissible, and if the City could get a team together to support and work on issue.

On motion of Councilmember Calhoun, seconded by Councilmember Perea, duly carried, **RESOLVED**, the above entitled Resolution No. 2004-25 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
 Noes : None  
 Absent : None

Mayor Autry spoke additionally to the ERAF, VLF and the \$15 billion State bond measure issues.

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**(9:00 A.M.) REPORT BY MAYOR AUTRY REGARDING HIS RECENT TRIP TO WASHINGTON, D.C.**

Mayor Autry this was probably the most productive trip in the past four years; elaborated on his meetings with three of the top cabinet-level officials: Secretary of Education Page, HUD Secretary Jackson, and the head of the drug control policy; requested Council consider sending a representative with him on the next Washington trip and spoke to the importance and benefit of Fresno having a delegation attend; and thanked Council for supporting the re-connection to Washington.

Councilmember Duncan commended Mayor Autry for his leadership and stated he would be happy to accompany the Mayor next time and added he would pay his own way. Councilmember Calhoun spoke to the city's vision, to the importance of asking for help to get there, and to the good things the city has done to get where it is at now, and added the city would get through the "mess" in Sacramento, with Mayor Autry responding. Councilmember Boyajian commended the Mayor, Ned Stacy, city staff and the Redevelopment Agency for their efforts to bring resources together, whereupon Mayor Autry commended Councilmember Boyajian for his leadership on housing. Councilmember Perea and President Castillo thanked the Mayor for his leadership and work to re-connect Fresno to Washington and there was no further discussion.

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**(3-C) RESOLUTION NO. 2004-26 - SUPPORTING THE STATIONING OF THE JOINT STRIKE FIGHTER AT THE LEMOORE NAVAL AIR STATION - COUNCILMEMBER DAGES**

Councilmember Dages advised the Federal government was considering the Lemoore Naval Air Station for the stationing of the Joint Strike Fighter, advised it was estimated Lemoore (and the valley by trickle effect) would benefit by \$1 billion to the local economy and five to ten thousand additional jobs, and made a motion to approve the resolution. Councilmember Perea spoke in support of the issue and briefly to his past work on defense legislation while serving as a congressional staffer.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2004-26 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
 Noes : None  
 Absent : None

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**(2-A) RESOLUTION NO. 2004-27 - IN SUPPORT OF EXECUTIVE ORDER NO. 03-01, APPROVING AMENDMENT TO AAR NO. 2003-209 APPROPRIATING THE EXISTING \$8.9 MILLION UNAPPROPRIATED RESERVE TO THE GENERAL FUND EMERGENCY RESERVE LINE ITEM THEREBY ESTABLISHING A 5% GENERAL FUND EMERGENCY RESERVE, AS AMENDED**

Mayor Autry stated he felt this action had to be taken, advised he heard even the \$15 billion bond would not be enough and the State would continue to turn to local government, and stated this was a common sense action and would put up a significant barrier between the essential components outlined in the executive order and other expenditures.

Councilmember Calhoun stated he was unclear on how this was different from what was already in place stating a reserve was a reserve, spoke to the need to build the reserve, and stated this resolution sent him the message that he was not a responsible individual and he had to be told when he could spend. Councilmember Duncan stated it was important that the community understand this reserve would have limited use and its intended purpose was very clearly stated in the executive order, and made a motion to adopt the resolution, which resolution was seconded and acted upon after lengthy discussion and subsequent amendments.

Councilmember Perea stated he supported the resolution as it would send a message to the community that the City was taking Sacramento seriously, and questioned if there would be an opportunity to increase the amount of money that goes into the reserve on a yearly basis, with Controller Quinto and Mayor Autry responding. Councilmember Sterling also spoke in support of the issue stating this was one of the best decisions the Mayor could make and the City was being pro-active, and also concurred with the need to expand the reserve.

Citing comments made by the administration, Councilmember Boyajian presented questions and commented on issues relative to whether the State would be unable to take money from an emergency reserve, perception that a psychological game was being played, economic development also being a very important component to spend the reserve on, number of council votes required for the unappropriated reserve and for the emergency reserve (**3 - 0**), concern with who would determine an emergency or priorities, what was considered a "health and public safety" issue, five votes being more conservative than four, another layer of bureaucracy being added and if this action was really necessary, and original intent of the reserve being to take care of basic city services, with City Attorney Montoy, Ms. Quinto and City Manager Hobbs clarifying issues and responding to questions/comments throughout. Councilmember Calhoun stated he would not support the resolution as it would take power away from the Council and Council should not have their hands tied.

Upon question and request of Councilmember Perea, the motion was amended to require five votes to expend the funds. Councilmember Duncan emphasized the funds could only be accessed at critical times and under extraordinary circumstances, noted the bar was set high, and stressed full support was needed. President Castillo clarified funds could still be used for job creation/economic development with five votes upon determining the other conditions do exist, and requested another amendment to the motion that all monies realized through interest go directly back into the reserve, which was accepted by the motion-maker.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2004-27 hereby adopted, *as amended*, added two caveats that five votes shall be required to appropriate the funds and all the monies realized through interest shall go directly back into the emergency reserve fund, by the following vote:

Ayes : Dages, Duncan, Perea, Sterling, Castillo  
 Noes : Boyajian, Calhoun  
 Absent : None

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**(9:45 A.M.) PRESENTATION BY BARBARA GOODWIN FRESNO COUNTY COUNCIL OF GOVERNMENTS (COG), REGARDING "ONE VOICE"**

Ms. Goodwin reviewed the background of the issue and gave an overview of the “One Voice” effort, the upcoming trip to Washington on February 23-27, the 10 projects in the amount of \$185 million that had been selected to be lobbied for this year, and spoke to the importance of having good, high-priority projects in front of the people in Washington when funding opportunities become available.

Gloria Torrez expressed concern with the lack of public input and invite and with the push for natural gas, stated her support for a bio-mass facility, solar power and clean air diesel, and questioned who was going to pay the law firm’s fees adding she did not want FAX dollars used.

Councilmember Perea noted he made the trip last year and concurred Washington was getting a heavy dose of Fresno and Fresno County, spoke to the importance of the trip and stated he was very supportive of the projects, and stated at some point he wanted to further discuss Item 9 (economic development to increase tourism) to get a better feel of the direction. Councilmember Calhoun expressed concern with the process that was undertaken in selecting the projects advising he was unaware of it and he now felt like a bystander, and questioned when council would be involved and if Council and staff was happy with the projects selected, with City Manager Hobbs and Transportation Manager Madewell responding. Councilmember Boyajian spoke to the issue and presented questions/comments at length relative to his shock at the priorities, if mass transit was considered, and concern with the lack of downtown off-ramp projects and Shaw/99 interchange not being included, with Transit General Manager Rudd, Mr. Hobbs and Ms. Goodwin responding throughout and clarifying issues (4 - 0). Councilmember Dages also expressed his concern with the priorities and the lack of Council input stating he would like to have been involved, and requested those involved to do everything they could for Peach Avenue stressing this was a safety issue. As the Mayor’s alternate on COG Councilmember Perea apologized to Council on behalf of himself and staff for not doing a good enough job in including Council members in the call for projects and stated he would be sure Council is included next time.

Councilmember Duncan stated the concept of regionalism was an easy thing to say but oftentimes hard to implement; complimented COG on their outstanding list of projects and on the process that was undertaken stating it had been very open; stated it was clear, if one looked at this from a regional basis, that these were high priority issues; clarified this was not a City of Fresno Council of Governments but a Fresno County Council of Governments; and stated the projects were critical to the region, there would be good results, and again complimented COG for all their work and added he hoped Councilmember Perea would continue to represent the city of Fresno. Councilmember Sterling stated the hard economic times were not seen when this effort began, noted everyone had their priority projects and spoke to the projects on the list that she supported, and stated this had been a great challenge and requested Council accept this and move forward..

Mr. Madewell responded briefly to comments of Acting President Castillo relative to concerns raised with Highway 99 being designated a federal highway and to his questions relative to what was on the radar screen and what the feeling was of other cities along 99. Acting President Castillo requested staff provide Council with an update report after the trip and where Highway 99’s federal designation was on the radar screen in Washington. There was no further discussion.

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**(4) SCHEDULED PUBLIC COMMENT:**

**1. APPEARANCE BY HARLEY TURNER TO DISCUSS THE REZONING OF PROPERTY BY DERRELL’S MINI STORAGE**

Mr. Turner expressed concern with the saturation of Derrell’s storage facilities east from the 41 corridor on Nees and Alluvial and with a comment made by a Derrell’s spokesman that a proposed facility was a “done deal”, with Councilmember Duncan and Planning & Development Director Yovino confirming nothing was a done deal, advised of the process that would be followed, and clarified there would be ample opportunity for public input. There was no further discussion.

**2. APPEARANCE BY HANDY VANG TO DISCUSS POLICE ACTIONS THAT OCCURRED AT THE FAIRGROUNDS DURING THE HMONG NEW YEAR CELEBRATION, AND IMPOUNDED CAR AND DRIVERS LICENSE TAKEN AWAY**

Appearance made with City Manager Hobbs stating police action on the vehicle violation was handled within the law, and relative to activities at the Hmong New Year stated staff felt that was an internal dispute within Hmong community and it was not the City’s venue, and advised Mr. Vang to contact the district attorney for FBI if he felt there was any wrongdoing. There was no further discussion.

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143-27

1-27-04

(10:00 A.M.) HEARING ON REZONE APPLICATION NO. R-03-66 AND ENVIRONMENTAL FINDINGS, FILED BY CONCORD CONSTRUCTION, PROPERTY LOCATED ALONG THE EAST SIDE OF N. MAPLE AVENUE NORTH OF E. INTERNATIONAL AVENUE (10658 AND 10700 N. MAPLE AVENUE) IN DISTRICT 6

1. CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-03-66, FINDING OF CONFORMANCE WITH THE 2025 FRESNO GENERAL PLAN MASTER EIR NO. 10130

2. **BILL NO. B-5 - ORDINANCE NO. 2004-6** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT SITE FROM R-A/UGM TO R-1-A/UGM

President Castillo announced the time had arrived to consider the matter and opened the hearing. Planner Beedle reviewed the issue as contained in the staff report as submitted and recommended approval. Councilmember Calhoun briefly left the meeting at 11:20 a.m. Councilmember Duncan stated this was a good project and nine quality homes would be built and made a motion to approve staff's recommendation.

Upon call, no one wished to be heard and President Castillo closed the hearing.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the environmental finding of Environmental Assessment No. R-03-66 issued on December 11, 2003, that the project proposal conforms to the provisions of the 2025 Fresno General Plan Master EIR No. 10130 hereby approved, and the above entitled Bill No. B-5 adopted as Ordinance No. 2004-6, by the following vote:

Ayes	:	Boyajian, Dages, Duncan, Perea, Sterling, Castillo
Noes	:	None
Absent	:	Calhoun

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(10:15 A.M.) CONTINUED HEARING ON REZONE APPLICATION NO. R-03-21 AND ENVIRONMENTAL FINDINGS, FILED BY LATCO ENTERPRISES, PROPERTY LOCATED ON THE NORTHWESTERLY SIDE OF N. FIGARDEN DRIVE BETWEEN N. SANTA FE AND W. SIERRA AVENUES IN DISTRICT 2 (CONTINUE TO 5:15 P.M.)

Continued as noted.

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(10:30 A.M.) HEARING ON REZONE APPLICATION NO. R-03-45 AND ENVIRONMENTAL FINDINGS, FILED BY BONADELLE DEVELOPMENT, PROPERTY LOCATED ON THE SOUTH SIDE OF E. SHIELDS AVENUE BETWEEN N. ARMSTRONG AND N. TEMPERANCE AVENUES IN DISTRICT 4

1. CONSIDER AND ADOPT THE MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. R-03-45/T-5233

2. **BILL NO. B-6 - ORDINANCE NO. 2004-7** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT SITE FROM AE-20 TO R-1/EA/UGM

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Chamberlain reviewed the issue as contained in the staff report as submitted and recommended approval. Councilmember Calhoun returned to the meeting at 11:23 a.m.

Applicant John Bonadelle stated he concurred with staff's recommendation.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Councilmembers Perea and Duncan spoke in support of the project and to how the general plan was working and guiding development to where it should be. Councilmember Boyajian spoke in opposition citing the impacts, need for an EIR, and need for impact and linkage fees.

On motion of President Castillo, seconded by Councilmember Dages, duly carried, RESOLVED, the finding of a Mitigated Negative Declaration for Environmental Assessment No. R-03-45/T-5233 dated November 26, 2003, hereby approved, and the above entitled Bill No.

B-6 adopted as Ordinance No. 2004-7, by the following vote:

143-28

1-27-04

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
Noes : Boyajian  
Absent : None

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**(10:40 A.M.)** HEARING ON REZONE APPLICATION NO. R-03-58 AND ENVIRONMENTAL FINDINGS, FILED BY DIRK POESCHEL OF LAND DEVELOPMENT SERVICES ON BEHALF OF GOON PUTTANUMOTANA, PROPERTY LOCATED ON THE NORTHEAST CORNER OF W. DAYTON AND N. BLYTHE AVENUES IN DISTRICT 1

**1.** CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-03-58, FINDING OF CONFORMANCE WITH THE 2025 FRESNO GENERAL PLAN MASTER EIR NO. 10130

**2. BILL NO. B-7 - ORDINANCE NO. 2004-8** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT SITE FROM AE-20/UGM TO R-1/UGM

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Marple reviewed the issue as contained in the staff report as submitted and recommended approval.

Dirk Poeschel, representing the applicant, stated the map would be coming forward, clarified issues relative to the landscape setback, and stated the applicant was committed to working with the neighbors.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Councilmember Boyajian spoke in opposition at length and expressed concerns relative to lack of a plan for the area, traffic impacts, road conditions, safety issues, and the need for a traffic signal at Cornelia and Dakota. Councilmember Duncan stated he saw this as a rezone request to be consistent with the general plan, clarified there was no project at this time and stated cost and fee issues would be addressed when a project does come forward, and made a motion to approve staff's recommendation. **(5 - 0)** Councilmember Dages stated people and developers look at the general plan, purchase property for development, and go through the process and pay fees, and stated threatening to turn them down sent a wrong message and added changes should be made when a plan is created.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, **RESOLVED**, the environmental finding of Environmental Assessment No. R-03-58, dated November 7, 2003, that the project proposal conforms to the provisions of the 2025 Fresno General Plan Master EIR No. 10130 hereby approved, and the above entitled Bill No. B-7 adopted as Ordinance No. 2004-8, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
Noes : Boyajian  
Absent : None

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**(10:50 A.M.)** HEARING ON REZONE APPLICATION NO. R-03-43 AND ENVIRONMENTAL FINDINGS, FILED BY DONALD SIMS, SOUTHWEST CORNER OF E. WHITESBRIDGE AVENUE AND S. PLUMAS STREET IN DISTRICT 3

**1.** CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-03-43/S-03-226, FINDING OF CONFORMANCE WITH THE 2025 FRESNO GENERAL PLAN MASTER EIR NO 10130

**2. BILL NO. B-8 - ORDINANCE NO. 2004-9** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SITE FROM C-6 TO R-2-A

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Bernal reviewed the issue as contained in the staff report as submitted and recommended approval.

Applicant Donald Sims spoke further to the proposed project and requested approval.



Upon call, no one else wished to be heard and President Castillo closed the hearing.

Councilmember Sterling spoke in support of Mr. Sims and his project and made a motion to approve staff's recommendation. Councilmember Boyajian commended Mr. Sims for developing in the inner-city stating this would be a real infill project and great for the community.

**143-29**

**1-27-04**

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental finding of Environmental Assessment No. R-03-43/S-03-226, dated October 27, 2003, that the project proposal conforms to the provisions of the 2025 Fresno General Plan Master EIR No. 10130 hereby approved, and the above entitled Bill No. B-8 adopted as Ordinance No. 2004-9, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
Noes : None  
Absent : None

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**(11:00 A.M.) CONSIDER APPROVAL OF A TAX SHARING AGREEMENT WITH THE COUNTY OF FRESNO RELATING TO THE ANNEXATION OF CERTAIN PROPERTY (COPPER RIVER RANCH PROJECT)**

**1. RESOLUTION NO. 2004-28 - AUTHORIZING AND DIRECTING PREPARATION OF ANY AND ALL DOCUMENTS AND AGREEMENTS NECESSARY TO ALLOW EARLY CONSTRUCTION GRADING PERMITS ON PROPERTY WITHIN THE COPPER RIVER RANCH PROJECT AREA IN CITY SPHERE OF INFLUENCE, PENDING ANNEXATION TO THE CITY**

Planning Manager Haro reviewed the issue as contained in the staff report as submitted and recommended approval.

Jeff Roberts, Copper River Ranch, LLC, 1396 W. Herndon, stated he concurred with staff's recommendation, commended staff for their work on the issue and requested approval.

Councilmember Duncan stating this was a technical action and spoke in support adding Copper River Ranch was anxious to continue the grading, and made a motion to adopt the resolution. Assistant City Manager Souza commended the City Attorney's office and specifically Jess Avila stating they did a tremendous amount of work.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, a Stand Alone Tax Sharing Agreement with Fresno County for the annexation of Copper River Ranch Project hereby approved, and the above entitled Resolution No. 2004-28 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
Noes : None  
Absent : None

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**LUNCH RECESS - 11:54 A.M. - 2:00 P.M.**

**(2:00 P.M. #1) CONTESTED CONSENT CALENDAR ITEMS:**

**(1-A) RESOLUTION NO. 2004-29 - AUTHORIZING THE CITY OF FRESNO TO IMPLEMENT REASONABLY AVAILABLE CONTROL MEASURES (RACM) AND SUBMIT TO THE COUNCIL OF FRESNO COUNTY GOVERNMENTS (COFCG) FOR INCLUSION IN THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT'S EXTREME AREA OZONE PLAN**

City Manager Hobbs, Transit General Manager Rudd and Transportation Manager Madewell clarified issues and/or responded at length to questions/comments of Councilmember Dages relative to RACM #8 (removal of on-street parking), #11 (removal of stop signs and signals that don't meet warrants), #17 (enhancing bicycle/pedestrian programs), #18 (closing certain roads), #19 (trail funding), and #27 (pedestrian and bicycle overpass where safety dictates). Councilmember Perea spoke to #32 (alternative energy) stating he liked that measure the best, referenced the solar equipment project at the municipal center and a company that expressed interest in locating here due to the city using alternative energy, requested #32 be made a priority, and spoke to and suggested various alternatives and requested staff

provide a report on the various alternatives. Councilmember Boyajian spoke to stop signs that were installed in his district for safety reasons and requested Council be notified before any are removed, and spoke to issues relative to bus stops and bus shelters and commended staff for all they have done in addressing bus issues, with Mr. Rudd responding throughout. Councilmember Duncan requested the city attorney provide an opinion on the consequences/liability to the city with the non-warranted stop signs. Mr. Rudd responded to questions of Councilmember Calhoun relative to implementing the RACMs, time frame to reach attainment, how attainment will be measured, number of RACMs that will be implemented prior to 2007, and request for a tray memo on the measures that have already been implemented.

**143-30**

**1-27-04**

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the list of Reasonable Available Control Measures (RACM) hereby approved, the above entitled Resolution No. 2004-29 committing the City of Fresno to implement those measures hereby adopted, and staff directed to forward the list to the Council of Fresno County Governments (COFCG) for inclusion in the San Joaquin Valley Air Pollution Control District's Ozone Attainment Plan, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
Noes : None  
Absent : None

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**(3-D) DIRECT STAFF TO CREATE THE NECESSARY DOCUMENTATION TO HAVE BAQUBAH, IRAQ, AS A SISTER CITY TO THE CITY OF FRESNO - COUNCILMEMBER DAGES**

Briefly reviewed by Councilmember Dages who stated he was requested to make Baqubah a Sister City at Iraq's request, clarified he was only asking for information to guide Council in that direction, and made a motion to approve his direction, which motion was seconded and later acted upon.

City Manager Hobbs stated he was a strong supporter of the Sister City program; noted Fresno had eight Sister Cities already, the program did not seem to be very active, and acknowledged this program may not be the highest priority for funding in these difficult times; advised he asked Dr. Jim Aldredge, staff consultant to the HRC, to conduct some exploration with Fresno State to see if there were any departments who might be willing to pull partners together to become the secretariat (take on the role of staffing and making these kinds of things happen) of the Sister Cities program stating the real potential of this partnership would be in the areas of economic development and educational exchanges; and advised he would report back in approximately 30 days.

Councilmember Calhoun stated he shared the city manager's concern with the number of Sister Cities and noted the program was in its hey day some years back; stated he was not opposed to the program but felt the City needed to "catch its breath" and see what it was doing with the other Sister Cities and what it would do with this one before taking any action; requested staff be allowed to move forward as proposed by the city manager and report back with information only and not an official resolution; **(6 - 0)** and questioned why this city was chosen, with Councilmember Dages responding.

Brief discussion ensued on the motion, Mr. Hobbs clarified his proposal, and Councilmember Calhoun encouraged Council to look at the entire program including statistics on what is out there and what has been done and added if the program if found to not be working the City needed to divorce itself from it.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, staff directed to (1) report back with information/suggestions to guide in the direction of making Baqubah a Sister City, (2) report back on the Sister City Program in its entirety including statistics and what might work with this request, and (3) determine if there is any outside agency interested in serving as secretariat to manage/coordinate/staff the Sister City Program, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
Noes : None  
Absent : None

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**RECESS - 2:46 P.M. - 3:00 P.M.**

**(2:00 P.M. #2) CLOSED SESSION:**

**(A) PUBLIC EMPLOYEE PERFORMANCE EVALUATION - TITLE: CITY CLERK**

**(B) CONFERENCE WITH LEGAL COUNSEL - DECIDING WHETHER TO INITIATE LITIGATION - CASE NAMES:**

1. CITY OF FRESNO V. ROBERT C. CHAO
2. CITY OF FRESNO V. STATE OF CALIFORNIA

**143-31**

**1/27/04**

**(C) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION - CASE NAME: CITY OF FRESNO V. MOCON CORPORATION AND CAT CONTRACTING, INC., A CALIFORNIA JOINT VENTURE, FIDELITY AND DEPOSIT COMPANY OF MARYLAND, A MARYLAND CORPORATION**

**(D) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATION: FRESNO POLICE OFFICERS' ASSOCIATION (FPOA)**

The City Council met in closed session in Room 2125 at the hour of 3:00 p.m. to consider the above issues and reconvened in regular open session at 5:10 p.m.

**CLOSED SESSION ANNOUNCEMENT**

City Attorney Montoy announced in the matter of Item C, City of Fresno v. Mocon Corporation and Cat Contracting, Inc., the Council voted 7-0 to approve settlement of a dispute and read the summary into the record.

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**(3:15 P.M.) DIRECT STAFF TO PURSUE ALTERNATIVES FOR OBTAINING LAND, FINANCING, DESIGN AND CONSTRUCTION OF A TURN-KEY FIRE AND LAW ENFORCEMENT ADMINISTRATION BUILDING AND COMMUNICATIONS CENTER - ACTING PRESIDENT PEREA**

Reviewed by Councilmember Perea who advised of his discussions with Chief Dyer relative to consolidating services, advised Fresno County adopted their resolution and was willing to be a player in this process, stated local governments needed to think creatively to save resources and his intent was to see what was out there, and made a motion to direct staff as outlined above.

Chief Dyer and Chief Bruegman spoke in support of Council providing direction to staff to engage in the exploratory process to see what potentials were out there, spoke to the age of their departments' buildings and to how their departments have outgrown their buildings' use, elaborated on the many benefits that would be derived with a combined system, advised the City had been noticed to receive a \$7 million homeland security grant that could be used for infrastructure costs (equipment), and stated this was a very exciting project and they looked forward to exploring and furthering the concept.

Councilmember Duncan seconded the motion on the floor and stated this was an exciting opportunity to streamline safety services to the public and provide for better efficiency, and noted there were other significant facility needs in both departments and questioned if the direction would look at all financing options to address other buildings' needs and if the \$7 million grant would drive this process faster, with City Manager Hobbs responding. Councilmember Dages spoke briefly in support, stated this was going to work, and commended all involved on their collaborative effort. Councilmember Calhoun noted he brought the consolidation issue up over three years ago but he excluded public safety because he thought the City would never get Fresno County's approval adding the irony was amazing, stated this was very exciting and spoke to how the Sheriff and the Board of Supervisors were key players, questioned if the Public Safety Commission would be involved in this matter (with Chief Dyer stating the commission was aware of the effort and staff's findings would be presented to them), and commended all involved in this effort. Councilmember Boyajian stated this was a good idea and presented questions relative to the number of employees that would be housed in the new facility, if staff saw any conflict with the central and regional stations, if staff had previously talked with the Sheriff about consolidating services, if the building would be located downtown, number of fire department employees that would be housed in the facility, and if staff was considering consolidation of the city's fire services. Councilmember Sterling expressed her support and thanked the three agencies on their collaboration stating it showed the community there was no "squabbling",

and spoke briefly to the fire departments' needs and conditions and stated she hoped this proposal would succeed.

Councilmember Perea added the building would be built with the capacity to expand, spoke to the need to improve working conditions noting the current police dispatch center was referred to as the dungeon, and commended Chiefs Dyer and Bruegman for their hard work. President Castillo stated this would be a lengthy process and spoke briefly to Councilmember Perea's efforts noting he had been working on this issue for eight months.

On motion of Councilmember Perea, seconded by Councilmember Duncan, duly carried, RESOLVED, staff directed to pursue alternatives for obtaining the land, financing, design and construction of a turn-key building, in downtown Fresno, for occupancy by the Fresno Police Department, Fresno Fire Department and the Fresno County Sheriff's Department to house their Headquarters, Administration operations and a communications center, by the following vote:

143-32

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Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
Noes : None  
Absent : None

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**(5:15 P.M.)** CONTINUED HEARING ON REZONE APPLICATION NO. R-03-21 AND ENVIRONMENTAL FINDINGS, FILED BY LATCO ENTERPRISES, NORTHWESTERLY SIDE OF N. FIGARDEN DRIVE BETWEEN N. SANTA FE AND W. SIERRA AVENUES IN DISTRICT 2

**1. CONSIDER AND ADOPT THE MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. R-03-21/C-03-67**

**2. BILL NO. B-9 - ORDINANCE NO. 2004-10 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT SITE FROM R-2/UGM/BA-15-20/UGM/cz WITH 15-20 FEET OF LANDSCAPING TO R-2/UGM/BA-15-20/UGM WITH 15-20 FEET OF LANDSCAPING**

President Castillo announced the time had arrived to consider the issue and opened the hearing. Supervising Planner Unruh gave a broad and lengthy PowerPoint presentation on the project proposal **(7 - 0)**, all as contained in the staff report as submitted, and recommended approval.

District 2 Council Assistant Kloose stated the question and issue was "how much is too much?" and explained; displayed a city-wide map and spoke to the number of apartments units that have been constructed, approved and planned city-wide and in the Bullard Plan area, specifically the Bullard Loop area; clarified the 2025 General Plan was a good plan and appeared to be working too good and too fast noting 80% of all apartment units city-wide that have been approved the past few years to just recently have been in the Bullard Loop area; and stated the concern was apartment construction was concentrated in the Bullard Loop area and there appeared to be an imbalance, and requested a balanced policy be explored

Dirk Poeschel, on behalf of Nick Latanzio and family who are purchasing the subject property, spoke to the background of the property and the two projects that were previously approved for it; advised a higher-quality project with fewer units than the amount allowed was being proposed; and spoke at length to the importance of developing in accordance with the recently adopted general plan, to the subject property being a component of a major attention area as outlined in the 1988 Bullard Community Plan and the 20225 General Plan, and to how the project's quality, design and studies all indicate the project far exceeds the city's development standards and that there was no basis to deny the zoning.

Speaking in opposition to the project were: Rosie Hendry, 6560 N. Blythe; Mackie Hartwig, 6522 N. Bendel; Jerry Gorans, 4139 W. Menlo; Jeff Vogel, 6486 N. Blythe; Leslie Jaramishian, 6371 N. Gentry; Juli Padilla, 6403 N. Hanover, who also submitted a map, a copy of which is on file in the office of the City Clerk; Eileen Majarian, 4214 W. Sierra **(8 - 0)**; and Bill Borough, 4239 W. Menlo.

Carl Motschieder, 1690 W. Shaw, representing Sisken Ranchos, owner of the property, spoke to the background of the property, in support of LATCO as a quality developer, and in support of the project.

Continued speakers in opposition were: Michael Karbassi, 2789 W. Decatur; and Todd Chase, 6462 E. El Capitan.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Councilmember Calhoun stated he wholeheartedly approved the general plan but he never expected the Figarden area in 2003-2004 would come this close to maxing out apartment construction planned through the year 2025; stated whether the area could adequately handle the apartments was less of an issue to him than orderly build-out; acknowledged the project was a good one and would be nice anywhere but he felt a time-out on multiple family projects in the area was needed; stated the general plan and the project were good plans but they needed to be implemented in a balanced manner; and stated this project was not right for this area at this time and made a motion to deny the rezoning request.

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Planning & Development Director Yovino responded to questions of Councilmember Dages and/or clarified issues relative to whether the general plan called for an assisted living facility on the property, permissible uses for the property, the project's proposed access points, allowable uses for the parcel at Brunswick/Sierra/Figarden, and the number of apartment units planned for the Bullard Plan area and number projected to be built in 2004. Councilmember Dages noted he has also preached and had a concern about the number of apartment units allowed to be built in one area, stated it was hard for him to find the reasoning to support this project, and stated he would support the neighbors as they lived there and seconded the motion to deny the rezoning. Councilmember Boyajian stated he agreed with one speaker that the developer could do better; presented questions relative to whether staff looked at land uses and the cumulative impacts (with Mr. Unruh and Mr. Yovino responding), and acknowledged the project was a good one but he felt a better plan was needed for the Bullard Loop/Figarden area.

Mr. Yovino, Mr. Poeschel and Mr. Unruh clarified issues and/or responded at length to questions of Councilmember Sterling relative to the noticing process and requirements, testimony and concerns expressed this date **(9 - 0)** and what the developer's response was, other uses allowed for the property, what has changed since 1975, if the police department had any concerns with the project, and noticing including how far the project was noticed, the project's opponents, and how far the opponents lived from the project. Councilmember Sterling spoke to the best types of uses and developments in the area and near the railroad tracks and stated this was a good use, and noted this had been planned since 1975 and she saw no reason to not approve the rezoning. Councilmember Duncan stated this kind of project would be welcomed in his district; stated he did not see traffic as an issue that stood out, he was an adamant fighter for the 2025 General Plan and it needed to be maintained, and pointed out the number of apartment units planned for the project versus the number that could be built was pretty significant; relative to concerns expressed about the large number of apartments in one area stated that also occurred in his district; stated a well-done development added value to an area and this project would be an asset as there was a market demand for high-quality housing; and stated he would not support the motion as a good process was undertaken by the developer and questioned if the developer was willing to continue to work with the area residents on their concerns, with Mr. Poeschel responding affirmatively. Councilmember Perea stated although he could sympathize with the neighbors he felt the developer had gone out of his way to work with the area; stated after hearing testimony it sounded like apartments were just not wanted in the area; and spoke to the need to stick with the general plan, pointed out Fresno was becoming an urban city and urban challenges needed to be faced and dealt with, and stated the community was going to have to learn how to grow within the city's boundaries and elaborated.

Mr. Hobbs stated there were two key issues that council needed to strongly consider -- the 2025 General Plan and economic development; emphasized what was being proposed this date was in accordance with the general plan; noted the northeast area where he lives had a lot of apartment units and clarified what was important was the type of development and not the number of units and stated he was hearing this was a high-quality development; relative to economic development emphasized if this project were to be denied the city would be walking away from at least \$14 million in economic development activity; requested, if the project is denied, that Council send the developer back one more time to meet with the neighbors to see if any other compromises could be arrived at; and reiterated it was important to maintain the principal of the general plan and consider the economic development potential. Councilmember Sterling added she was on the planning commission when the general plan process was undertaken and clarified all of this was all on the table and numerous public meetings were held at the planning commission and city council levels but people did not attend.

Upon question of President Castillo, Mr. Yovino stated if the project is denied the developer would have to wait one year to re-file the application and it would take several more months to go through the process, and added he appreciated the city manager's comments and stated, if the project is denied, he would be very concerned about the message that would send to other property owners in implementing

the general plan. President Castillo questioned if the motion-maker would consider amending the motion to request the developer to meet with area residents again to consider single-story units on the perimeter, a concrete wall on Figarden Drive, and a Santa Fe exit, whereupon City Attorney Montoy stated those would be permissible conditions on a motion to approve but not on this motion to deny.

A motion of Councilmember Calhoun, seconded by Councilmember Dages, to deny Rezone Application No. R-03-21 failed, by the following vote:

Ayes : Boyajian, Calhoun, Dages  
Noes : Duncan, Perea, Sterling, Castillo  
Absent : None

Discussion ensued on approving the rezone with conditions. Mr. Yovino clarified the developer was willing to consider a block wall, advised single-stories were already proposed on the perimeter, and stated the access issue could be further reviewed. Ms. Montoy recommended Council approve staff's recommendation with the condition that the site plan come back to Council and clarified the conditions would not be imposed but the developer was being asked to consider them.

143-34

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Councilmember Calhoun acknowledged defeat and suggested, in fairness to the developer and the neighbors, that a motion be made to approve staff's recommendation, and stated he, staff and the developer all heard the neighbors concerns and he was sure the developer would do the right thing.

On motion of President Castillo, seconded by Councilmember Sterling, duly carried, RESOLVED, the finding of a Mitigated Negative Declaration for Environmental Assessment No. R-03-21/C-03-67 dated October 16, 2003 hereby approved, and the above entitled Bill No. B-9 approving Rezone Application No. R-03-21 to remove the existing conditions of zoning established by Rezone Application Nos. R-7785 and R-99-33 adopted as Ordinance No. 2004-10, by the following vote:

Ayes : Duncan, Perea, Sterling, Castillo  
Noes : Boyajian, Dages  
Absent : None  
Abstain : Calhoun

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## ADJOURNMENT

There being no further business to bring before the City Council, the hour of 8:08 p.m. having arrived and hearing no objections, President Castillo declared the meeting adjourned.

**APPROVED** on the \_\_\_\_3rd\_\_\_\_ day of \_\_\_\_February\_\_\_\_, 2004.

\_\_\_\_\_/s/\_\_\_\_\_  
Brad Castillo, Council President

ATTEST:\_\_\_\_\_/s/\_\_\_\_\_  
Yolanda Salazar, Assistant City Clerk

143-35

1/27/04